

AUG 08 2013

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

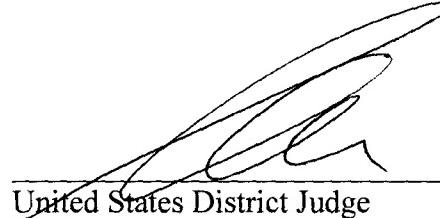
JULIA C. DODLEY, CLERK
BY: *S. G. Wilson*
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UNITED STATES OF AMERICA,) Criminal Case No. 4:08cr00001-1
)
v.) FINAL ORDER
)
SHIRLAND FITZGERALD) By: Samuel G. Wilson
) United States District Judge

In accordance with this court's memorandum opinion entered this day, it is **ORDERED** and **ADJUDGED** that Fitzgerald's motion (ECF No. 593) is **CONSTRUED** as a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, and the Clerk is directed to **FILE** the motion as such; the § 2255 motion is **DISMISSED without prejudice** as successive; and the case is **STRICKEN** from the active docket.

Further, the court finds that Fitzgerald has not made the requisite showing of the substantial denial of a constitutional right as required by 28 U.S.C. § 2253(c) and, therefore, a certificate of appealability is **DENIED**.

ENTER: This 8th day of August, 2013.


United States District Judge